

ARIZONA STATE SENATE

RESEARCH STAFF



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TO: MEMBERS OF THE SENATE
APPROPRIATIONS COMMITTEE

DATE: February 19, 2021

SUBJECT: Strike everything amendment to S.B. 1121, relating to marijuana; security; social equity license

Purpose

Outlines requirements for the issuance of licenses to a marijuana facility as a part of the Social Equity Program (Program) by the Department of Health Services (DHS). Outlines requirements for marijuana product tracking and safety warnings and marijuana facility security. Contains requirements for enactment for initiatives and referendums (Proposition 105).

Background

In 2020, Arizona voters approved the Smart and Safe Arizona Act, which established a regulatory framework for the adult use of marijuana. DHS must adopt rules to implement and enforce statutory requirements for the adult use of marijuana, including rules relating to: 1) the licensing of marijuana establishments and marijuana testing facilities; 2) the security of marijuana establishments and marijuana testing facilities; and 3) the tracking, testing, labeling and packaging of marijuana and marijuana products. Additionally, DHS must adopt rules for the creation and implementation of a Program to promote the ownership and operation of marijuana establishments and marijuana testing facilities by individuals from communities disproportionately impacted by the enforcement of previous marijuana laws. In addition to the number of licenses issued by DHS to marijuana establishments pursuant to statutory requirements, DHS must issue 26 licenses to entities that qualify for the Program.

Marijuana and marijuana products must be placed in child-resistant packaging and sold to consumers in clearly and conspicuously labeled containers that contain accurate warning regarding the use of marijuana and marijuana products ([A.R.S. § 36-2854](#)). Marijuana establishments cannot: 1) package or label marijuana or marijuana products in a false or misleading manner; 2) sell or advertise marijuana or marijuana products resembling the form of a human, animal, insect, fruit, toy or cartoon; or 3) sell or advertise marijuana or marijuana products with names that resemble or imitate food or drink brands marketed to children ([A.R.S. § 36-2860](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Marijuana Facilities and Marijuana Product Tracking and Disposal

1. Requires DHS rules relating to the security of marijuana establishments and marijuana testing facilities to require a security system for marijuana establishments and marijuana testing facilities that includes:
 - a) video cameras that cover all indoor rooms and the entire property outdoors;
 - b) digital video recorders that can store at least 60 days of security video history; and
 - c) a radio frequency identification name tag for each employee with tracking capability to monitor the location of employees when on-site and alert management or a control room when an employee is in an unauthorized location at the facility.

2. Requires a licensee to maintain a list of authorized access locations by employee and the employee's compliance to approved locations to prevent diversion.
3. Requires DHS to procure, develop, acquire and maintain a system for use by licensees to track marijuana and marijuana products at all points of cultivation, manufacturing and sale in a manner in which the data and secured date identifier are:
 - a) stored in the central database; and
 - b) subject to security protocols to ensure chain of custody of the information and to foreclose tampering with either the monitoring device data or the paired secure transactional stamp.
4. Requires the marijuana and marijuana product tracking system to ensure:
 - a) an accurate accounting and reporting of the production, processing and sale of marijuana and marijuana products; and
 - b) compliance with DHS rules.
5. Requires the marijuana and marijuana product tracking system to be capable of tracking:
 - a) the propagation of immature marijuana plants and the production of marijuana by a marijuana establishment;
 - b) the processing and sale of marijuana and marijuana products by a marijuana establishment;
 - c) the sale and purchase of marijuana and marijuana products between licensees;
 - d) the transfer of marijuana and marijuana products between licensed premises;
 - e) the disposal of marijuana waste; and
 - f) any other information determined reasonably necessary to accomplish the duties, functions and powers of DHS.
6. Requires marijuana waste to be disposed of in the same manner as biohazardous medical waste.

Marijuana and Marijuana Product Labeling

7. Requires DHS rules for tracking, testing and labeling marijuana and marijuana products to be consistent with requirements for safety orange warning requirements.
8. Requires marijuana product manufacturing or testing to occur pursuant to written operating procedures.
9. Prohibits combustible solvents in the manufacture of marijuana products.
10. Requires DHS to adopt rules relating to the:
 - a) diversion of marijuana and marijuana products from licensees to unauthorized persons; and
 - b) importation and exportation of marijuana and marijuana products from Arizona.
11. Requires any marijuana product packaging labeled for sale to include a safety warning with a safety orange color band that encompasses the circumference of the marijuana product at an opening point.
12. Requires the safety orange color band to be at least one-half inch wide and include:
 - a) a consumer scannable tetrahydrocannabinol (THC) quick response code that links to a webpage that contains certain information; and
 - b) bold black text of at least 12-point font stating "for adult use only" and "contains THC".

13. Requires the webpage that is linked in the scannable THC quick response code to display:
 - a) the date of harvest of the marijuana;
 - b) the THC strain of the marijuana;
 - c) the THC extraction method used;
 - d) a laboratory agent report of impurities containing at least heavy metals and agrochemicals;
 - e) the date of manufacture of the marijuana product;
 - f) the distribution chain, including at least a point of intended sale; and
 - g) a warning stating "using marijuana during pregnancy could cause birth defects or other health issues to your unborn child."
14. Requires a licensee to submit a marijuana product package or label to DHS for approval before using the label or package.
15. Requires DHS, before approving a label or package, to determine that the label or package is not attractive to minors and does not contain any inaccurate or misleading information.
16. Requires marijuana and marijuana products packaged for disposal to be placed in a safety orange container that has a tamper-resistant seal that reads "marijuana waste product" and "potentially dangerous".

Social Equity Ownership Program (Program)

17. Requires, by December 31, 2021, DHS to issue the 26 additional marijuana establishment licenses to qualified entities for the Program.
18. Requires a license issued as a part of the Program to be issued by lottery to qualified applicants.
19. Requires each qualified Program applicant who is an individual with more than a 10 percent ownership interest to successfully complete a program on business development and regulatory compliance provided by DHS.
20. Directs DHS to issue the 26 Program licenses as follows:
 - a) 7 licenses to companies that are at least 40 percent owned by a nonprofit corporation that has been incorporated for at least five years and that provides at least four out of eight specified programs to communities disproportionately impacted by the enforcement of previous marijuana laws; and
 - b) 19 licenses to either individuals from a community disproportionately impacted by the enforcement of previous marijuana laws or companies that are at least 25 percent owned by an individual from a community disproportionately impacted by enforcement of previous marijuana laws.
21. Prohibits a Program license from being transferred to anyone other than another qualified applicant in the first five years of the license.
22. Allows a Program license, after five years, to be transferred to any person who qualifies for a marijuana establishment license.
23. Prohibits DHS from charging an application fee of more than \$2,500 for a Program applicant.

24. Requires DHS to require each Program applicant to demonstrate that the applicant has at least \$500,000 in liquid capital in the name of the applicant or a principal officer or board member of the applicant.
25. Allows the liquid capital requirement to be satisfied by a:
 - a) statement from a federally insured deposit institution verifying the liquid capital;
 - b) letter of credit in the amount of \$500,000 issued by a federally insured deposit institution;
or
 - c) statement from the qualified applicant.
26. Requires DHS to provide a marijuana facility agent training program on regulatory compliance at no cost to licensees operating under the Program.
27. Requires a city, town or county to allow at least one marijuana establishment whose license is issued as a part of the Program to operate within its jurisdiction, subject to the same ordinances and rules that apply to nonprofit medical marijuana dispensaries.
28. Defines *qualified applicant*.

Miscellaneous

29. Defines *licensee*, *required information*, *safety orange* and *secured data identifier*.
30. Makes technical and conforming changes.
31. Requires for enactment the affirmative vote of at least three-fourths of the members of each house of the Legislature (Proposition 105).
32. Becomes effective on the general effective date.